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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/568,263

09/17/2008

Walter Erich Spath

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EXAMINER

SULLIVAN, DEBRA M

ART UNIT

PAPER NUMBER

3725

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/568,263	<b>Applicant(s)</b> SPATH, WALTER ERICH	
	<b>Examiner</b> DEBRA M. SULLIVAN	<b>Art Unit</b> 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11102008</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Claim Rejections - 35 USC § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The limitation “applying the oscillations to the advancing tools” renders the claim indefinite because it is unclear how the oscillator associated with the at least one bending or reshaping tools is to apply oscillations to the advancing tools, unless applicant is trying to further define the at least one bending or reshaping tools to be advancing tools.

### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-26 and 29-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Cwik (US 3,473,361). In reference to claim 15, Cwik discloses a method to bend and reshape through roll bending, wherein the profile (38) is bent under the influence of at least one bending tool, the method comprising the steps of providing oscillations for the at least one bending tool (48), applying the oscillations of the at least one bending tool (48) to the profile (38) to be bent in at least the reshaping zone, and subjecting the profile

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to be bent to a flow process whereby the outside of the material of the profile (38) to be reshaped is stretched and the profile is compressed on the opposite area, the profile being subjected to the oscillations during the flow process [see col. 4 lines 32-49].

In reference to claim 16, the reshaping of the profile is done using a roll bending process, as seen in figure 1.

In reference to claims 17 and 18, the oscillations act in the longitudinal direction onto the bending tool (48).

In reference to claims 19 and 20, as best understood, wherein the bending tool is an advancing tool, and the method further comprising applying the oscillations to the advancing tool.

In reference to claim 21 and 22, the method further employs mandrel tool shafts (48) and introducing oscillations to the mandrel shaft tools.

In reference to claim 23, Cwik further discloses imparting two-dimensional oscillations to the bending tool (48).

In reference to claim 24, Cwik further discloses the oscillations are done in the range from about 18 kHz to 20 kHz [see col. 5 lines 25-28].

In reference to claim 25, the oscillations are provided piezoelectrically [see col. 4 line 41].

In reference to claim 26, the method further employs an oscillator (64) which introduces oscillations to the bending tool (48) directed in the longitudinal direction.

In reference to claim 29, Cwik further comprises placing vibration saddles between the oscillatorily excited bending tools, the saddle sitting against the profile to be bent.

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In reference to claims 30 and 31, the method employs a chuck , the method further comprising exerting a longitudinally directed oscillation onto the profile (38) held there via jaws by means of the oscillator in the chuck [see col. 3 lines 5-8].

In reference to claim 32, the method uses a mandrel station (60) which supports the free rear ends of the mandrel rods, the method further comprising acting upon the mandrel station by a first mandrel oscillator.

In reference to claim 33, the method employs a mandrel shaft seat and a mandrel shaft seat oscillator in the mandrel shaft seat, the method further comprising introducing an oscillation to the mandrel shaft in the vertical direction by means of the mandrel shaft seat oscillator.

2. Claims 15-23, 25, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Tasaki et al. In reference to claim 15, Tasaki et al discloses a method to bend and reshape through roll bending, wherein the profile (24) is bent under the influence of at least one bending tool, the method comprising the steps of providing oscillations for the at least one bending tool (31), applying the oscillations of the at least one bending tool (31) to the profile (24) to be bent in at least the reshaping zone, and subjecting the profile to be bent to a flow process whereby the outside of the material of the profile (24) to be reshaped is stretched and the profile is compressed on the opposite area, the profile being subjected to the oscillations during the flow process [FIG 1].

In reference to claim 16, the reshaping of the profile is done using a roll bending process, as seen in figure 1.

In reference to claims 17 and 18, the oscillations act in the longitudinal direction onto the bending tool (31).

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In reference to claims 19 and 20, as best understood, wherein the bending tool is an advancing tool, and the method further comprising applying the oscillations to the advancing tool.

In reference to claim 21 and 22, the method further employs mandrel tool shafts (31) and introducing oscillations to the mandrel shaft tools.

In reference to claim 23, Tasaki et al further discloses imparting two-dimensional oscillations to the bending tool (31).

In reference to claim 25, the oscillations are provided electromagnetically [see col. 3 line 18-30].

In reference to claim 26, the method further employs an oscillator (36) which introduces oscillations to the bending tool (31) directed in the longitudinal direction.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tasaki et al. Tasaki et al discloses the invention substantially as claimed except for wherein the oscillator has three dimensional, current fed electromagnetic windings. However, Tasaki et al does disclose that other any other vibrator means may be used in place of the electromagnetic vibrator. Therefore it would have been within the realm of one having ordinary skill in the art to interchange the electromagnetic vibrator for a three dimensional current fed electromagnetic windings since they are known equivalents in

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the art and perform the same function. Therefore it would have been obvious, based on the suggestion of Tasaki et al, to one having ordinary skill in the art at the time the invention was made to modify the oscillator of Tasaki et al to be a three dimensional current fed electromagnetic windings since both oscillators are known equivalents in the art.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra Sullivan whose telephone number is (571) 272-1904. The examiner can normally be reached Monday - Friday 8am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached at (571) 272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Debra M Sullivan/  
Primary Examiner, Art Unit 3725